

HOUSE BILL NO. 262

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A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE PUBLIC SCHOOLS CHILD INTERNET
PROTECTION ACT; AND REQUIRING SCHOOL DISTRICTS TO ADOPT A POLICY TO PREVENT USE OF
SCHOOL COMPUTERS AND SERVICES FOR SENDING, RECEIVING, VIEWING, OR DOWNLOADING CHILD
PORNOGRAPHY, MATERIAL OBSCENE TO MINORS, OR OBSCENITY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Public Schools
Child Internet Protection Act".

NEW SECTION. **Section 2. Declaration of policy.** The legislature finds and declares as follows:

(1) the state has a compelling interest and duty to protect children from exposure to illegal child
pornography, material obscene to minors, and obscenity;

(2) the state has a compelling interest in preventing any user from accessing child pornography,
material obscene to minors, and obscenity within a public school setting;

(3) there is a need to balance the goal of providing free access to educationally suitable
information sources on the internet against the compelling need and duty to protect children from contact
with sexual predators and access to child pornography, material obscene to minors, and obscenity;

(4) pornography in a school setting can create a hostile environment constituting sexual
harassment; and

(5) the state has a compelling interest and duty to take reasonable steps to prevent the creation
of a hostile school environment and to prevent sexual harassment of students, school library patrons, and
others.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 4], the following definitions
apply:

(1) "Acceptable use policy" means a policy for internet use that is acceptable to and adopted by a school board under [section 4].

(2) "Child pornography" means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct when:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct;

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or

(d) the visual depiction is advertised, promoted, presented, described, or distributed in a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct.

(3) "Material obscene to minors" means any printed or visual material as defined in 45-8-205.

(4) "Obscenity" means any material that is obscene as described in 45-8-201(2).

(5) "School board" means the trustees of an elementary school district, high school district, or K-12 school district.

(6) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) bestiality;

(c) masturbation;

(d) sadistic or masochistic abuse; or

(e) lascivious exhibition of the genitals or pubic area of any person.

NEW SECTION. Section 4. Requirement of school district internet policy. (1) Within 180 days after [the effective date of this act], each school board shall establish an acceptable use policy for the international network of computer systems commonly known as the internet. At a minimum, the acceptable use policy must:

(a) prohibit the use by students of the school district or other persons of any computer equipment

1 and communications services owned or leased by the school district for sending, receiving, viewing, or
2 downloading child pornography, material obscene to minors, or obscenity;

3 (b) establish appropriate measures to be taken against students and other persons who willfully
4 violate the school district's acceptable use policy; and

5 (c) provide for expedited review and resolution of a claim that the acceptable use policy denies
6 a student or other person access to material that is not within the prohibition of the acceptable use policy.

7 (2) The school board shall take steps that it considers appropriate to implement and enforce the
8 acceptable use policy. ~~The steps must include, at a minimum:~~

9 ~~—— (a) the use of software programs designed to block access to material that is reasonably believed~~
10 ~~to be child pornography, material obscene to minors, or obscenity; or~~

11 ~~—— (b) the selection of an internet service provider whose service is designed to block access to~~
12 ~~material that is reasonably believed to be child pornography, material obscene to minors, or obscenity.~~

13 (3) Each school district shall annually provide the parent or guardian of each student with a copy
14 of the district's acceptable use policy.

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16 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
17 codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20 apply to [sections
18 1 through 4].

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